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8 UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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11 GARY DELMAR HENDERSON,

12 Plaintiff,

13 v.

14 G. AGAME, et al.,

15 Defendants.  
16

No. 1:20-cv-00635-NONE-JLT (PC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS

(Doc. No. 16)

17 Plaintiff Gary Delmar Henderson is a state prisoner proceeding *pro se* and *in forma*  
18 *pauperis* in this civil rights action brought pursuant to 42 U.S.C. § 1983. This matter was referred  
19 to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

20 On February 8, 2021, the assigned magistrate judge filed a screening order, finding that  
21 plaintiff's first amended complaint (Doc. No. 12) states a cognizable claim for violation of the  
22 First Amendment against Defendant Agame, but that its remaining claims are not cognizable.  
23 (Doc. No. 13.) The magistrate judge directed plaintiff to file a second amended complaint curing  
24 the deficiencies in his pleading or to notify the court of his desire to proceed only on the claims  
25 found cognizable. (*Id.* at 1, 7.) On March 8, 2021, plaintiff filed a notice that he wishes to  
26 proceed only on the cognizable First Amendment claim. (Doc. No. 14.)

27 Therefore, on March 10, 2021, the magistrate judge filed findings and recommendations,  
28 recommending that (1) Defendant Esmond be dismissed and (2) the claims in plaintiff's first

1 amended complaint be dismissed, except for its First Amendment claim against Defendant  
2 Agame. (Doc. No. 16.) The findings and recommendations were served on plaintiff and  
3 provided him 14 days to file objections thereto. (*Id.* at 2.) Plaintiff has not filed any objections  
4 and the time to do so has passed.

5 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a  
6 *de novo* review of this case. Having carefully reviewed the file, the court finds the findings and  
7 recommendations to be supported by the record and proper analysis.

8 Accordingly,

- 9 1. The findings and recommendations issued on March 10, 2021 (Doc. No. 16) are  
10 adopted in full;
- 11 2. Defendant Esmond is dismissed;
- 12 3. The claims in plaintiff's first amended complaint are dismissed, except for the  
13 claim for violation of the First Amendment against Defendant Agame, pursuant to  
14 42 U.S.C. § 1983; and,
- 15 4. This case is referred back to the assigned magistrate judge for further proceedings.

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17 IT IS SO ORDERED.

18 Dated: May 8, 2021

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21 UNITED STATES DISTRICT JUDGE  
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